

State of South Dakota

SEVENTY-NINTH SESSION LEGISLATIVE ASSEMBLY, 2004

445J0407

SENATE BILL NO. 84

Introduced by: Senators Olson (Ed), Abdallah, Albers, Brown, de Hueck, Koetzle, and Sutton (Dan) and Representatives Hackl, Garnos, Schafer, Sebert, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to require sellers and lessors of residential property to
2 disclose any knowledge of the existence of prior manufacturing of methamphetamines.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 43-4-44 be amended to read as follows:

5 43-4-44. The following form shall be used for the property condition disclosure statement:

6 SELLER'S PROPERTY CONDITION DISCLOSURE STATEMENT

7 Seller _____

8 Property Address _____

9 _____

10 This Disclosure Statement concerns the real property identified above situated in the City of
11 _____ County of _____, State of South Dakota.

12 THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE
13 DESCRIBED PROPERTY IN COMPLIANCE WITH § 43-4-38. IT IS NOT A WARRANTY
14 OF ANY KIND BY THE SELLER OR ANY AGENT REPRESENTING ANY PARTY IN
15 THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR



WARRANTIES THE PARTIES MAY WISH TO OBTAIN. Seller hereby authorizes any agent representing any party in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

IF ANY MATERIAL FACT COMES TO THE ATTENTION OF THE SELLER WHICH WOULD AFFECT ANY STATEMENT MADE BY THE SELLER FOLLOWING THE SIGNING OF THIS STATEMENT AND BEFORE THE TIME OF SETTLEMENT, THE SELLER SHALL NOTIFY THE BUYER AND ANY AGENT REPRESENTING ANY PARTY TO THIS TRANSACTION IN WRITING OF SUCH MATERIAL FACT OR OTHER INFORMATION.

I. LOT OR TITLE INFORMATION

1. When did you purchase or build the home?

2. Were there any title problems when you purchased the property?

Yes ____ No ____ Unknown ____

If yes, describe: _____

3. Are there any unrecorded or recorded liens or financial instruments against the property, other than a first mortgage?

Yes ____ No ____ Unknown ____

If yes, explain: _____

4. Are there any easements which have been granted in connection with the property (other than normal utility easements for public water and sewer, gas and electric service, telephone service, cable television service, drainage, and sidewalks)?

Yes ____ No ____ Unknown ____

If yes, explain on separate page and attach hereto.

1 5. Are there any problems related to establishing the lot lines/boundaries?

2 Yes ____ No ____ Unknown ____

3 Do you have a location survey in your possession or a copy of the recorded plat?

4 Yes ____ No ____ Unknown ____

5 If yes, attach a copy of same.

6 6. Are you aware of any encroachments from or on adjoining property (i.e. fences, driveway,
7 sheds, outbuildings, or other improvements)?

8 Yes ____ No ____

9 If yes, explain: _____

10 7. Are you aware of any covenants or restrictions affecting the use of the property in accordance
11 with local law?

12 Yes ____ No ____

13 If yes, attach a copy of the covenants and restrictions, if available.

14 8. Are you aware of any current or pending litigation, foreclosure, zoning, building code or
15 restrictive covenant violation notices, mechanic's liens, judgments, special assessments, zoning
16 changes or changes that could affect your property?

17 Yes ____ No ____ Unknown ____

18 If yes, explain: _____

19 _____

20 9. Is the property currently occupied by the owner?

21 Yes ____ No ____

22 If no, is the property leased? Yes ____ No ____

23 If yes, please attach a copy of any written lease or a statement as to the terms and conditions of
24 the lease.

1 10. If leased, does the property use comply with local zoning laws, if any?

2 Yes ____ No ____ Unknown ____

3 11. Is there ground rent? Yes ____ No ____ Unknown ____

4 If so, what is the ground rent payment (i.e. annually, semi-annually, monthly)? \$ _____

5 per _____

6 12. Do you pay any mandatory fees or special assessments to a homeowners' or condominium
7 association?

8 Yes ____ No ____

9 If so, what are the fees or assessments? \$ ____ per ____ (i.e. annually, semi-annually,
10 monthly)

11 Payable to whom: _____

12 For what purpose: _____

13 13. Does the property ever have standing water in either the front, rear or side yard more than
14 forty-eight hours after heavy rain?

15 Yes ____ No ____ Unknown ____

16 If yes, describe: _____

17 14. Are wetlands located upon any part of the property?

18 Yes ____ No ____ Unknown ____

19 If yes, describe: _____

20 15. Are any features of the property (i.e. walls, fences, roads or driveways) shared in common
21 with adjoining landowners whose use or responsibility for maintenance may have an effect on
22 the property?

23 Yes ____ No ____ Unknown ____

24 If yes, describe: _____

II. STRUCTURAL INFORMATION

1. Have you experienced any water penetration problems in the walls, windows, doors, basement or crawl space?

Yes ____ No ____ Unknown ____

What water damage related repairs, if any, have been made?

If so, when? _____

Is drain tile installed on the property? Yes ____ No ____ Unknown ____

2. Are there any interior cracked walls or floors, or cracks or defects in exterior driveways, sidewalks, patios, or other hard surface areas?

Yes ____ No ____ Unknown ____

If yes, explain: _____

3. Have you ever experienced roof leakage?

Yes ____ No ____ Unknown ____

Type of roof covering: _____

Age: _____

What roof repairs, if any, have been made? _____

If so, when? _____

Describe any existing unrepaired damage to the roof: _____

4. Have you received notice that fire retardant treated plywood may have been used during roof construction of the property?

Yes ____ No ____

If yes, has an inspection of the roof been performed?

Yes ____ No ____ Unknown ____

If yes, explain results: _____

1 5. Is there insulation in:

2 the ceiling/attic? Yes ____ No ____ Unknown ____

3 the walls? Yes ____ No ____ Unknown ____

4 the floors? Yes ____ No ____ Unknown ____

5 6. Are you aware of any termite or wood boring infestation or damage, either past or present?

6 Yes ____ No ____ Unknown ____

7 If yes, explain: _____

8 Has the property been treated for any termite or wood boring infestation or damage?

9 Yes ____ No ____ Unknown ____

10 If yes, who treated it and when? _____

11 7. Have you performed any work upon the property within the last five years which required a

12 building, plumbing, electrical or any other permit?

13 Yes ____ No ____

14 If yes, describe the work: _____

15 Was a permit obtained? Yes ____ No ____

16 Was the work approved by an inspector? Yes ____ No ____

17 Explain: _____

18 8. Has the property, structures, or improvements thereon ever been damaged? (i.e. fire, smoke,

19 wind, floods, hail, or snow)

20 Yes ____ No ____ Unknown ____

21 If yes, has the damage been repaired? Yes ____ No ____

22 9. Are you aware of any problems with sewer blockage or backup, past or present?

23 Yes ____ No ____ Unknown ____

24 III. SYSTEMS/UTILITIES INFORMATION

1	NONE/NOT	NOT	
2	INCLUDED	WORKING	WORKING UNKNOWN

3 A. ELECTRICAL SYSTEM

4 Burglar Alarm and/or Security

5 System

6 Ceiling Fan

7 Garage Wiring

8 Garage Door/Opener Control(s)

9 Doorbell

10 Intercom

11 Light Fixtures

12 Sauna

13 Smoke and/or Fire Alarm

14 Switches & Outlets

15 Vent Fan

16 220 Volt Service

17 B. HEATING AND COOLING SYSTEM

18 Air Exchanger

19 Attic Fan

20 Air Purifier

21 Central Air -- Electric

22 Central Air -- Water Cooled

23 Fireplace

24 Fireplace Insert

- 1 Furnace/Heat -- Electric or Gas
- 2 Humidifier
- 3 Propane Tank -- Leased or Owned
- 4 Solar House -- Heating
- 5 Woodburning Stove

6 C. WATER/SEWER SYSTEMS

- 7 Cistern
- 8 Hot Tub, Whirlpool, and Controls
- 9 Plumbing and Fixtures
- 10 Pool & Equipment
- 11 Septic/Leaching Field
- 12 Sump Pump
- 13 Underground Sprinkler & Heads
- 14 Water Heater -- Electric or Gas
- 15 Water Purifier
- 16 Water Softener -- Leased or Owned
- 17 Well & Pump
- 18 Sewer Systems/Drains

19 D. HAZARDOUS CONDITIONS

20 ~~Are there any existing hazardous conditions of the property such as methane gas, lead paint,~~
21 ~~radon gas in the house or well, radioactive material, a landfill mineshaft, expansive soil, toxic~~
22 ~~materials, ureaformaldehyde foam insulation, asbestos insulation, or buried fuel or chemical~~
23 ~~storage tanks?~~

24 ~~Yes _____ No _____ Unknown _____~~

1 ~~Have any tests been performed?~~ Yes ____ No ____ Unknown ____

2 Explain: _____

3 1. Are you aware of the presence of methane gas? Yes ____ No ____

4 2. Have you tested for methane gas? Yes ____ No ____

5 3. Are you aware of the presence of lead-based paint? Yes ____ No ____

6 4. Have you tested for lead-based paint? Yes ____ No ____

7 5. Are you aware of the presence of radon gas? Yes ____ No ____

8 6. Have you tested for radon gas? Yes ____ No ____

9 7. Are you aware of the presence of radioactive material? Yes ____ No ____

10 8. Have you tested for radioactive material? Yes ____ No ____

11 9. Are you aware of the presence of a landfill on the property? Yes ____ No ____

12 10. Are you aware of the presence of expansive soil on the property? Yes ____ No ____

13 11. Are you aware of existence of toxic materials and other conditions having an environmental
14 impact? Yes ____ No ____

15 12. Are you aware of the presence of ureaformaldehyde foam insulation? Yes ____ No ____

16 13. Are you aware of the presence of asbestos? Yes ____ No ____

17 14. Are you aware of any buried fuel or chemical storage tanks on the property?

18 Yes ____ No ____

19 15. Are you aware of existence of prior manufacturing of methamphetamines?

20 Yes ____ No ____

21 IV. MISCELLANEOUS INFORMATION

22 1. Is the street or road located at the end of the driveway to the property public or private?

23 Public ____ Private ____ Unknown ____

24 If private, is there a written road maintenance agreement?

1 Yes ____ No ____ Unknown ____

2 If yes, attach a copy of the maintenance agreement, if available.

3 2. Is this property located in or near a flood plain?

4 Yes ____ No ____ Unknown ____

5 3. When was the fireplace/wood stove/chimney flue last cleaned?

6 Date: _____

7 4. In the twelve months prior to the date of signing this document, did any of the following
8 occur on the subject property:

9	YES	NO	UNKNOWN
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10 a. A human death by homicide	_____	_____	_____
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11 b. Other felony committed against the			
12 property or a person on the property	_____	_____	_____

13 If yes to any of the above explain:

14 _____

15 5. Are the improvements connected to a public or private water system?

16 6. If private, what is the date and result of the last water test?

17 _____

18 7. Are the improvements connected to a public or private sewer system?

19 _____

20 8. Are there broken window panes or seals?

21 Yes ____ No ____ Unknown ____

22 If so, specify: _____

23 9. Are there any items attached to the property that will not be left, such as: towel bars, mirrors,
24 swag lamps and hooks, curtain rods, window coverings, light fixtures, clothes lines, swing sets,

1 storage sheds, ceiling fans, basketball hoops, mail boxes, etc.
2 _____

3 10. Are there any other problems that have not been disclosed above?

4 Yes ____ No ____

5 If yes, explain: _____

6 CLOSING SECTION

7 The Seller hereby certifies that the information contained herein is true and correct to the best
8 of the Seller's information, knowledge and belief as of the date of the Seller's signature below.

9 If any of these conditions change before conveyance of title to this property, the change will be
10 disclosed in a written amendment to this disclosure statement.

11 SELLER _____ DATE _____

12 SELLER _____ DATE _____

13 THE SELLER AND THE BUYER MAY WISH TO OBTAIN PROFESSIONAL ADVICE
14 AND INSPECTIONS OF THE PROPERTY TO OBTAIN A TRUE REPORT AS TO THE
15 CONDITION OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS
16 IN ANY CONTRACT OF SALE AS NEGOTIATED BETWEEN THE SELLER AND THE
17 BUYER WITH RESPECT TO SUCH PROFESSIONAL ADVICE AND INSPECTIONS.

18 I/We acknowledge receipt of a copy of this statement on the date appearing beside my/our
19 signature(s) below. Any agent representing any party to this transaction makes no
20 representations and is not responsible for any conditions existing in the property.

21 BUYER _____ DATE _____

22 BUYER _____ DATE _____

23 Section 2. That chapter 43-32 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 In any hiring of a residential premises, any lessor who has actual knowledge of the existence
2 of any prior manufacturing of methamphetamines on the premises shall disclose that
3 information to any lessee or any person who may become a lessee.